



ATTENTION

Probate cases on this calendar are currently under review by the probate examiners. Review of some probate cases may not be completed and therefore have not been posted.

If your probate case has not been posted please check back again later.

Thank you for your patience.

**Amended First Account and Report of Conservator, Petition for Allowance of Fees
 for Attorney**

DOD: 05/05/09 Cont. from <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 5%;"></td> <td style="width: 85%;">Aff.Sub.Wit.</td> <td style="width: 10%;"></td> </tr> <tr> <td>✓</td> <td>Verified</td> <td></td> </tr> <tr> <td></td> <td>Inventory</td> <td></td> </tr> <tr> <td></td> <td>PTC</td> <td></td> </tr> <tr> <td></td> <td>Not.Cred.</td> <td></td> </tr> <tr> <td>✓</td> <td>Notice of Hrg</td> <td></td> </tr> <tr> <td>✓</td> <td>Aff.Mail</td> <td>w/</td> </tr> <tr> <td></td> <td>Aff.Pub.</td> <td></td> </tr> <tr> <td></td> <td>Sp.Ntc.</td> <td></td> </tr> <tr> <td></td> <td>Pers.Serv.</td> <td></td> </tr> <tr> <td></td> <td>Conf. Screen</td> <td></td> </tr> <tr> <td></td> <td>Letters</td> <td></td> </tr> <tr> <td></td> <td>Duties/Supp</td> <td></td> </tr> <tr> <td></td> <td>Objections</td> <td></td> </tr> <tr> <td></td> <td>Video Receipt</td> <td></td> </tr> <tr> <td></td> <td>CI Report</td> <td></td> </tr> <tr> <td></td> <td>9202</td> <td></td> </tr> <tr> <td></td> <td>Order</td> <td>x</td> </tr> <tr> <td></td> <td>Aff. Posting</td> <td></td> </tr> <tr> <td></td> <td>Status Rpt</td> <td></td> </tr> <tr> <td></td> <td>UCCJEA</td> <td></td> </tr> <tr> <td></td> <td>Citation</td> <td></td> </tr> <tr> <td></td> <td>FTB Notice</td> <td></td> </tr> </table>		Aff.Sub.Wit.		✓	Verified			Inventory			PTC			Not.Cred.		✓	Notice of Hrg		✓	Aff.Mail	w/		Aff.Pub.			Sp.Ntc.			Pers.Serv.			Conf. Screen			Letters			Duties/Supp			Objections			Video Receipt			CI Report			9202			Order	x		Aff. Posting			Status Rpt			UCCJEA			Citation			FTB Notice		<p>PAT MIRANDA, Conservator, is Petitioner.</p> <p>Account period: 08/22/03 – 07/22/07</p> <table style="width: 100%;"> <tr> <td style="width: 40%;">Accounting</td> <td style="width: 10%;">-</td> <td style="width: 50%;">\$71,689.37</td> </tr> <tr> <td>Beginning POH</td> <td>-</td> <td>\$15,081.52</td> </tr> <tr> <td>Ending POH</td> <td>-</td> <td>\$46.35</td> </tr> <tr> <td>Conservator</td> <td>-</td> <td>waives</td> </tr> <tr> <td>Attorney</td> <td>-</td> <td>\$2,000.00</td> </tr> </table> <p>(ok per Local Rule)</p> <p>Petitioner states that there are no assets remaining in the estate and requests that the Conservatorship be terminated.</p> <p>Petitioner requests an Order:</p> <ol style="list-style-type: none"> 1. Approving, allowing, and settling the amended first account; and 2. Authorizing payment of attorney's fees. 	Accounting	-	\$71,689.37	Beginning POH	-	\$15,081.52	Ending POH	-	\$46.35	Conservator	-	waives	Attorney	-	\$2,000.00	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p style="text-align: center;"><u>CONTINUED TO 11/05/12</u> <u>Per request of Counsel</u></p> <ol style="list-style-type: none"> 1. Need Order. 2. The Petition states that the accounting presented covers the period from 08/22/03 – 07/22/07; however, the Schedule 1 "Receipts" ends on 12/06/06 and Schedule 2 "Cash Disbursements" ends on 12/15/06. 3. Schedule 2 "Cash Disbursements" reflects several debits for overdraft and NSF fees totaling \$177.00. The Court may require further information and/or explanation of these debits. 4. The Court may require further information regarding the following disbursements listed on Schedule 2 "Cash Disbursements": <ol style="list-style-type: none"> a. 04/20/04 – Reimbursement to Pat Miranda for carpet for conservatee's room - \$1,700.00 b. 05/22/04 – Down payment on El Camino - \$1,000.00 c. 12/15/04 – Room and Care to Pat Miranda - \$1,200.00 (monthly room and care charges were usually \$400.00, why the increase in this month?) d. 12/04/06 – Room and Care to Pat Miranda - \$400.00 (Payments of \$1,224.00 began on 05/25/06 (and continued monthly through the end of the accounting presented) to Country View Alzheimer's Care. Why is the conservatee paying Country View and Room and Care to Pat Miranda in December 2006?) <p>Note: The Petition indicates that the conservatee died on 05/05/09, this account only covers the period from 08/22/03 – 07/22/07. Need accounting for period of 07/23/07 – 05/05/09 and an accounting for the period subsequent to the date of death pursuant to Probate Code § 2620(b).</p> <p>If this petition is granted, a status hearing will be set as follows:</p> <ul style="list-style-type: none"> • Friday, October 26, 2012 for filing of the Final Account <p>Reviewed by: JF</p> <p>Reviewed on: 09/18/12</p> <p>Updates: 09/20/12</p> <p>Recommendation:</p> <p>File 1 - McCaslin</p>
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Attorney	-	\$2,000.00																																																																																				

Atty Matthai, Edith (for Craig A. Houghton – Objector)

Atty Manock, Charles K. (for George Salwasser/Executor of the Estate of Lillian Salwasser)

Atty Chielpegian, Michael S (for Marvin Salwasser/Administratoor with Will Annexed of Walter Respondent)

Salwasser

Atty Wright, Janet L. (for George Salwasser/Executor)

Atty Farley, Michael L. (of Visalia, for Gary E. Salwasser - Beneficiary)

Amended and Restated First Account and Report (Status)

		George Salwasser is Executor.	NEEDS/PROBLEMS/COMMENTS:
		An Amended and Restated First Account was filed on 1-13-10 and has been continued with reference to additional ongoing matters in this and other related cases.	<u>Continued from 6-25-12. As of 9-17-12, nothing further has been filed by Executor.</u>
Cont from : 062512			Note: It is Examiner's understanding that at this point a further amended petition for final distribution is expected from Executor to close the estate once the other related matters are settled. This continued hearing is for status on such expected petition for final distribution.
<input type="checkbox"/>	Aff.Sub.Wit.		
<input type="checkbox"/>	Verified		
<input type="checkbox"/>	Inventory		
<input type="checkbox"/>	PTC		
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<input type="checkbox"/>	Aff.Mail		
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<input type="checkbox"/>	Pers.Serv.		
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<input type="checkbox"/>	Letters		
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<input type="checkbox"/>	Aff. Posting		
<input checked="" type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		
		<p>For background, Executor's Status Report filed 10/24/11 states: The purpose of this hearing was to determine whether any further accounting would be necessary as the PrC §850 petitions of the Lillian Salwasser Estate and Walter Salwasser Estate were settled by Settlement Agreement and Release entered into on 6/21/11. Based on the Settlement terms it appears no further accounting should be required for any account reported in the pending Account for accounts held in Decedent or her surviving spouse's names at the time of Decedent's death.</p> <p>The Probate Estate Account (opened after Decedent's date of death) and collections, if any, on Promissory Notes reported in the Account, would need to be supplemented through date of distribution (Two notes are currently the subject of lawsuits); until there is determination as to the collectability on the Notes, tax matters cannot be finally determined.</p> <p>A mediation is scheduled for 11/16/11 between George and Gary Salwasser; therefore, a continuance of 4 to 6 months is appropriate under the circumstances.</p> <p>Since then, the matter has been continued to 2-27-12 and now to 6-25-12 per stipulation of the parties.</p> <p>Status Report and Request for Continuance filed 6-21-12 states all litigation matters have recently been settled. Executor requests 90 days to finalize the petition for final distribution and complete related matters.</p>	<p><u>Status Report and Request for Continuance filed 9-19-12 by Attorney Janet Wright states all matters impeding the filing of the petition appear to have been completed and a draft has been prepared; however, due to an unexpected illness and death in the family of the attorney for the Executor, the draft has not been finalized. Attorney requests 60 days to finalize the petition and continuance to 11-26-12.</u></p> <p>Note: The Court may require continuance to a Friday Status Calendar, which would be 11-30-12.</p> <p>1. Need amended petition for final distribution.</p>
			Reviewed by: NRN / skc
			Reviewed on: 9-17-12
			Updates: 9-19-12
			Recommendation:
			File 2 – Salwasser

Atty Sanoian, Joanne (for Bruce Bickel – Guardian of the Estate)

(1) Second Account and Report of Guardian, (2) Petition for Its Settlement, (3) for Attorney Fees, (4) for Commission to Guardian, (5) Reimbursement of Costs Advanced, and (6) for Approval of Settlement Agreement (Prob. C. 2620, 2640, 2641 & 2642, CRC 7.703(e), 7.750-7.751 and 7.754, Local Rules 7.16D)

Age: 5		BRUCE BICKEL , Guardian of the Estate, is Petitioner.	NEEDS/PROBLEMS/COMMENTS: Note: Page 4 is the guardianship estate of this minor's brother. <u>SEE ADDITIONAL PAGE</u>
		Lena Martin , Paternal Grandmother, was appointed Guardian of the Person on 9-15-08.	
		Account period: 2-1-10 through 1-31-12	
	Aff.Sub.Wit.	Accounting: \$251,202.30	
✓	Verified	Beginning POH: \$249,638.46	
	Inventory	Ending POH: \$212,089.25	
	PTC	(\$115,089.25 cash plus an interest in certain real and personal property)	
	Not.Cred.		
✓	Notice of Hrg	Guardian (Bickel): \$12,203.00.00	
✓	Aff.Mail	(77.55 hours @ \$90-175/hr for fiduciary services in connection with estate administration, wrongful death litigation, and tax protest proceeding)	
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen	Attorney (Sanoian): \$6,189.75	
	Letters	(5.5 attorney hours @ \$285-300/hr, 29.4 attorney hours @ \$200/hr, 29.9 paralegal hours @ \$125/hr, and 19.25 legal assistant hours @ \$40/hr, for legal services, divided between the two minors' estates)	
	Duties/Supp		
	Objections	Costs: \$435.00 (filing)	
	Video Receipt		
	CI Report	Attorney (Pape): \$3,569.50	
✓	2620(c)	(24.2 hours @ \$295/hr for legal services in connection with the wrongful death suit and tax issues, divided between the two minors' estates)	
✓	Order		
	Aff. Posting	Attorney (Shewan): \$1,379.12	
	Status Rpt	(9.35 hours @ \$295/hr for legal services in connection with the wrongful death suit, divided between the two minors' estates)	
	UCCJEA		
	Citation		
	FTB Notice	Petitioner states on 4-14-10 the court signed an order authorizing Petitioner to retain the Law Firm of Pape & Shewan LLP to pursue claims against Cantrell Ellis (Father) for his parental obligation of support for the minor and a wrongful death claim on behalf of the guardianship estate. A judgment was entered in favor of Petitioner as Guardian of the Estates of Kiara Ellis and Daryl Ellis on 11-17-11 in the amount of \$8,006,190.66 against Cantrell Ellis.	
		<u>SEE ADDITIONAL PAGE</u>	Reviewed by: skc Reviewed on: 9-18-12 Updates: Recommendation: File 3 - Ellis

Page 2

Petitioner states that in lieu of a collection proceeding, Cantrell Ellis has agreed to transfer his undivided one-half interest in the residence (this minor and her brother hold title to the other half) to Petitioner as Guardian of the minors' estates. Attached is a proposed Agreement Regarding Transfer of Asset in Lieu of Collection Proceedings.

Mr. Ellis' real property interest is currently encumbered with a promissory note and deed of trust in favor of Salavatore Sciandra and has accrued over \$12,000.00 in interest. Mr. Sciandra is willing to cancel, discharge and cause the release of that Deed of Trust in consideration of payment of \$40,000.00 and will also waive accrued interest. \$20,000.00 is to be paid from each minor's estate.

Petitioner believes the agreement is in the minors' best interest to forego formal collection proceedings and to own the entire real property residence in fee simple. The minors reside in the residence. Petitioner asks that this court approve the agreement.

NEEDS/PROBLEMS/COMMENTS:

1. The Court may require clarification regarding the actual result of the agreement and whether anything further is expected or intended from the verdict against the father, with reference to the benefit to the minors for this litigation and this proposed outcome in lieu of collections on the verdict. This does not appear to be readily understandable from the petition pursuant to Probate Code §1064. For instance: What is the father's current and potential future financial or income situation that makes this agreement appropriate as *in lieu of* possible future collection efforts?
2. The Receipts Schedule includes consists mainly of interest on the accounts, but no other income is reflected. *In extensive review of file history*, Examiner found that pursuant to Court Order dated 10-16-08, Guardian Lena Martin was also to receive the minors' Social Security death benefits (\$564 per month per child) without accounting, but the minute order specifically did not approve any overages. The Court may require an update on the current amounts received and omitted from accounting pursuant to that order.

Examiner notes that due to the extensive history of this guardianship estate, like in many cases, a brief explanation in the instant petition of the history and household situation would be very helpful to avoid time spent reviewing years of prior filings and orders to determine the reasons behind the nuances of the instant account, such as why certain receipts are excluded, etc.

SEE ADDITIONAL PAGE

3. Examiner notes that one vehicle was sold, but the motorcycle and the jet ski remain as assets of the guardianship estates as of the close of this account period. The Court may require clarification regarding efforts to sell these assets since the order dated 3-9-11 that authorized their sale.

Examiner notes that the Disbursements Schedule includes numerous entries for insurance, including Victoria Insurance, Travelers, and Titan Insurance, and also includes entries for storage space (Derrel's Mini Storage), without explanation. Are these costs related to these assets? What is the benefit to the minor to continue to maintain them, or what efforts have been made to sell them?

If these costs are not related to these items, need further clarification.

Again, due to the extensive history of this case, if this information was explained in a previously filed account or other document, Examiner was not able to find such explanation. Clarification in the instant petition is always helpful.

4. The Court may require clarification regarding the 7-21-10 payment to Larnel Ellis for \$234.50. Examiner notes that the Court's order dated 6-11-10 noted that this person shall not have unsupervised contact with the minor, but it is unclear from instant documents who this person is or why he was paid from guardianship funds.
5. Petitioner requests 19.25 hours @ \$40/hour (\$770.00) for services of her legal assistant. This appears to be for secretarial services which pursuant to Local Rule 7.17B are considered by the Court to be a part of doing business and not reimbursable.

(1) Second Account and Report of Guardian, (2) Petition for Its Settlement, for (3) Attorney Fees, for Commission to Guardian, Reimbursement of Costs Advanced and for (4) Approval of Settlement Agreement (Prob. C. 2620 & 2640, CRC 7.750-73751, and 7.754, Local Rules 7.16D)

Age: 12		BRUCE BICKEL , Guardian of the Estate, is Petitioner.	NEEDS/PROBLEMS/COMMENTS: See additional pages.
	Aff.Sub.Wit.		
✓	Verified		
	Inventory		
	PTC		
	Not.Cred.		
✓	Notice of Hrg		
✓	Aff.Mail	w	
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
✓	2620(c)		
✓	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		
		Account period: 2-1-10 through 1-31-12 Accounting: \$251,202.24 Beginning POH: \$249,638.46 Ending POH: \$212,569.22 (\$115,069.22 cash plus an interest in certain real and personal property)	
		Guardian (Bickel): \$12,203.00.00 (77.55 hours @ \$90-175/hr for fiduciary services in connection with estate administration, wrongful death litigation, and tax protest proceeding)	
		Attorney (Sanoian): \$6,189.75 (5.5 attorney hours @ \$285-300/hr, 29.4 attorney hours @ \$200/hr, 29.9 paralegal hours @ \$125/hr, and 19.25 legal assistant hours @ \$40/hr, for legal services, divided between the two minors' estates)	
		Costs: \$435.00 (filing)	
		Attorney (Pape): \$3,569.50 (24.2 hours @ \$295/hr for legal services in connection with the wrongful death suit and tax issues, divided between the two minors' estates)	
		Attorney (Shewan): \$1,379.12 (9.35 hours @ \$295/hr for legal services in connection with the wrongful death suit, divided between the two minors' estates)	
		Petitioner states on 4-14-10 the court signed an order authorizing Petitioner to retain the Law Firm of Pape & Shewan LLP to pursue claims against Cantrell Ellis (Father) for his parental obligation of support for the minor and a wrongful death claim on behalf of the guardianship estate. A judgment was entered in favor of Petitioner as Guardian of the Estates of Kiara Ellis and Daryl Ellis on 11-17-11 in the amount of \$8,006,190.66 against Cantrell Ellis.	
		SEE ADDITIONAL PAGE	
			Reviewed by: skc
			Reviewed on: 9-19-12
			Updates:
			Recommendation:
			File 4 - Ellis

Page 2

Petitioner states that in lieu of a collection proceeding, Cantrell Ellis has agreed to transfer his undivided one-half interest in the residence (this minor and her brother hold title to the other half) to Petitioner as Guardian of the minors' estates. Attached is a proposed Agreement Regarding Transfer of Asset in Lieu of Collection Proceedings.

Mr. Ellis' real property interest is currently encumbered with a promissory note and deed of trust in favor of Salavatore Sciandra and has accrued over \$12,000.00 in interest. Mr. Sciandra is willing to cancel, discharge and cause the release of that Deed of Trust in consideration of payment of \$40,000.00 and will also waive accrued interest. \$20,000.00 is to be paid from each minor's estate.

Petitioner believes the agreement is in the minors' best interest to forego formal collection proceedings and to own the entire real property residence in fee simple. The minors reside in the residence. Petitioner asks that this court approve the agreement.

NEEDS/PROBLEMS/COMMENTS:

6. The Court may require clarification regarding the actual result of the agreement and whether anything further is expected or intended from the verdict against the father, with reference to the benefit to the minors for this litigation and this proposed outcome in lieu of collections on the verdict. This does not appear to be readily understandable from the petition pursuant to Probate Code § 1064. For instance: What is the father's current and potential future financial or income situation that makes this agreement appropriate as in lieu of possible future collection efforts?
7. The Receipts Schedule includes consists mainly of interest on the accounts, but no other income is reflected. In extensive review of file history, Examiner found that pursuant to Court Order dated 10-16-08, Guardian Lena Martin was also to receive the minors' Social Security death benefits (\$564 per month per child) without accounting, but the minute order specifically did not approve any overages. The Court may require an update on the current amounts received and omitted from accounting pursuant to that order.

Examiner notes that due to the extensive history of this guardianship estate, like in many cases, a brief explanation in the instant petition of the history and household situation would be very helpful to avoid time spent reviewing years of prior filings and orders to determine the reasons behind the nuances of the instant account, such as why certain receipts are excluded, etc.

8. Examiner notes that one vehicle was sold, but the motorcycle and the jet ski remain as assets of the guardianship estates as of the close of this account period. The Court may require clarification regarding efforts to sell these assets since the order dated 3-9-11 that authorized their sale.

Examiner notes that the Disbursements Schedule includes numerous entries for insurance, including Victoria Insurance, Travelers, and Titan Insurance, and also includes entries for storage space (Derrel's Mini Storage), without explanation. Are these costs related to these assets? What is the benefit to the minor to continue to maintain them, or what efforts have been made to sell them?
If these costs are not related to these items, need further clarification.

Again, due to the extensive history of this case, if this information was explained in a previously filed account or other document, Examiner was not able to find such explanation. Clarification in the instant petition is always helpful.

9. Petitioner requests 19.25 hours @ \$40/hour (\$770.00) for services of her legal assistant. This appears to be for secretarial services which pursuant to Local Rule 7.17B are considered by the Court to be a part of doing business and not reimbursable.

(1) Waiver of Accounting and (2) Petition for Final Distribution Under Will and (3) for Allowance of Statutory Fees and Commissions [Prob. C. 11640, 10800, 10810]

DOD:	7/14/08	RAYMOND GRAFTON BAIRD, Administrator, is petitioner.	NEEDS/PROBLEMS/COMMENTS:
		Accounting is waived.	
Cont. from			
	Aff.Sub.Wit.	I & A - \$1,038,825.73	
✓	Verified		
✓	Inventory	Administrator (statutory) - \$23,315.23	
✓	PTC		
✓	Not.Cred.	Attorney (statutory) - \$23,315.23	
✓	Notice of Hrg		
✓	Aff.Mail	W/O Closing - \$2,500.00	
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
✓	Letters	2/18/10 Donna Lorraine Baird - ½ interest in real property, stocks, Treasury bonds and \$190,385.78.	
	Duties/Supp		
	Objections		
	Video Receipt	Raymond Grafton Baird - ½ interest in real property, stocks, Treasury bonds and \$190,385.78.	
	CI Report		
✓	9202		
✓	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
✓	FTB Notice		
			Note to Judge: The statutory fees were calculated incorrectly. With the permission of Jill Spaulding (assistant to the attorney) the order has been interlinedated to reflect the correct statutory fees and distribution.
			Reviewed by: KT
			Reviewed on: 9/19/12
			Updates:
			Recommendation: SUBMITTED
			File 5 - Baird

DOD: 10/21/09		<p>JUDITH BARR was appointed Administrator on 2/22/10.</p> <p>Inventories and appraisals total \$353,3330.71</p> <p>First Account and Petition for Preliminary Distribution was filed on 9/8/11.</p> <p>Minute Order dated 4/5/12 continued this status hearing for the filing of the Petition for Final Distribution.</p> <p>Status Report of Attorney Judith Wright filed on 9/18/12 states the Administrator is unable to close the probate due to the existence of a bank account held with Cheltenham and Gloucester in London, England. This account has an approximate value of \$36,297.13 in U.S. dollars. The Administrator opened a probate in England in order to get the Cheltenham and Gloucester account transferred to the estate. The probate has closed in England and the funds were electronically transferred to the Administrator the first week of July. When reviewing the final accounting, the Administrator discovered the bonding company had not reduced their premium based on the reduction of bond ordered by the court. To date repeated calls to the bonding company has yet to result in receipt of a revised invoice. The accounting cannot be completed until the revised invoice is received and paid. The Administrator respectfully requests an additional 45 days to file the final petition.</p>	NEEDS/PROBLEMS/COMMENTS:
Cont. from 120811, 040512, 080612			
Aff.Sub.Wit.			
Verified			
Inventory			
PTC			
Not.Cred.			
Notice of Hrg			
Aff.Mail			
Aff.Pub.			
Sp.Ntc.			
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Conf. Screen			
Letters			
Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
Order			
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			
		Reviewed by: KT	
		Reviewed on: 9/19/12	
		Updates:	
		Recommendation:	
		File 6 - Ferreira	

7 **Thelma L Day (Trust)**
 Atty Klassen, Kent (attorney for Marilyn Yamananka)
 Atty Day, Montie S. (attorney for Nicole Day and Montie Day (pro per)
 Atty Teixeira, J. Stanley (Petitioner, Court appointed attorney for Thelma Day)
 Atty Barrus, John E. (attorney for the Public Guardian)

Case No. 10CEPR00998

Petition for Compensation of Court-Appointed Independent Counsel

		J. STANLEY TEIXEIRA, court appointed attorney for Thelma Day, is petitioner.	NEEDS/PROBLEMS/COMMENTS: 1. Billing statement includes \$14.04 in photocopy and postage costs. Local Rule 7.17B considers the above costs to be a part of the cost of doing business and therefore they are not reimbursable.
		Petitioner states on 8/9/12 the Court appointed him to represent Thelma Day, and to perform any reasonable legal services in connection with this matter.	
Cont. from			
	Aff.Sub.Wit.		
✓	Verified		
	Inventory		
	PTC		
	Not.Cred.		
✓	Notice of Hrg		
✓	Aff.Mail	W/	
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
	Letters		
	Duties/Supp	Petitioner requests that he be paid \$4,664.04 for 18.60 hours @ \$250 per hour.	
	Objections	Wherefore, Petitioner prays for an order fixing and allowing compensation and costs incurred in the amount of \$4,664.04.	
	Video Receipt		
	CI Report		
	9202		
✓	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		
			Reviewed by: KT
			Reviewed on: 9/19/12
			Updates:
			Recommendation:
			File 7 - Day

Petition for Settlement of Accounts and Passing on Acts of Trustee [Prob. C. 17200(b)(5)]

			RONALD A. MINASIAN , Trustee, is petitioner.	NEEDS/PROBLEMS/COMMENTS: <u>Note:</u> The petition does not include any proposed distribution of the remaining property on hand.
			1 st Account period: 4/18/09- 11/15/11	
			Accounting - \$410,900.54	
			Beginning POH - \$ 25,541.75	
			Ending POH - \$351,187.24	
Cont. from			2 nd Account period: 11/16/11 – 7/16/12	
<input type="checkbox"/>	Aff.Sub.Wit.		Accounting - \$356,671.96	
<input checked="" type="checkbox"/>	Verified		Beginning POH - \$351,187.24	
<input type="checkbox"/>	Inventory		Ending POH - \$ 23,852.19	
<input type="checkbox"/>	PTC		Trustee has paid himself \$3,500.00 in trustee's fees.	
<input type="checkbox"/>	Not.Cred.		Trustee has paid his attorney \$14,094.68 for their services and costs. In addition petitioner's attorney has billed \$2,422.50 for their services during July 2012. Petitioner anticipates that his attorney's will incur additional fees estimated to be \$1,083.00 for providing notice of hearing of this petition and attendance at the hearing and preparing and serving the notice of entry of order on this petition and closing the trust estate.	
<input checked="" type="checkbox"/>	Notice of Hrg			
<input checked="" type="checkbox"/>	Aff.Mail	W/		
<input type="checkbox"/>	Aff.Pub.			
<input type="checkbox"/>	Sp.Ntc.			
<input type="checkbox"/>	Pers.Serv.			
<input type="checkbox"/>	Conf. Screen			
<input type="checkbox"/>	Letters			
<input type="checkbox"/>	Duties/Supp			
<input type="checkbox"/>	Objections			
<input type="checkbox"/>	Video Receipt			
<input type="checkbox"/>	CI Report			
<input type="checkbox"/>	9202		Petitioner prays for an order:	
<input checked="" type="checkbox"/>	Order		1. A finding that all facts stated in the Petition are true and that all notices required by law have been duly given.	
<input type="checkbox"/>	Aff. Posting		2. That the accounts included in this Petition and report be settled, allowed and approved, and all acts and transactions of Petitioner set forth herein, be ratified, confirmed and approved.	
<input type="checkbox"/>	Status Rpt			
<input type="checkbox"/>	UCCJEA			
<input type="checkbox"/>	Citation			
<input type="checkbox"/>	FTB Notice			
Please see additional page				

Reviewed by: KT
Reviewed on: 9/20/12
Updates:
Recommendation:
File 8 - Minasian

Petitioner's prayer continued:

3. That Petitioner's payment to his attorneys in the sum of \$2,422.50 as fees for services rendered to the Trustee and the Trust during the month of July 2012, be ratified, confirmed and approved.
4. That Petitioner be directed and allowed to pay his attorney their actual future fees earned in providing services to petitioner and the trust, in a total amount not to exceed \$1,083.00 without obtaining further approval from the Court.

Atty Clark, William F. of Redondo Beach (for Petitioner James R. Wilkinson - Beneficiary)
Atty Simonian, Jeffrey (for Respondent Ross W. Wilkinson - Trustee)

Fourth Amended Petition for: 1) Accounting; 2) Removal of Trustee and Appointment of Successor; 3) Return of Assets to Trust Estate; 4) Finding Ross W. Wilkinson Liable for Financial Elder Abuse; 5) Awarding Double Damages 6) Determining Ross W. Wilkinson Pre-Deceased the Trustors 7) Ross W. Wilkinson Not be Permitted to Use Trust Assets to Defend Himself 8) Attorney Fees and Costs

William DOD: 2/2/2009		JAMES WILKINSON , son and beneficiary of the WILLIAM and DORTHEA WILKINSON TRUST , is Petitioner.	NEEDS/PROBLEMS/COMMENTS: 1. Need Notice of Hearing (Mandatory Judicial Council form DE-120) with Proof of service by mail on all interested parties at least 30 days before the hearing. Note: See Page 9B for a related matter. Trial is set in this matter on 10/30/12.
Dorothea DOD: 1/19/1997			
Cont. from 082212		Petitioner states: <ul style="list-style-type: none"> Pursuant to the Trust's 4th Amendment, which is a Survivor's Trust, the current Trustee ROSS WILLIAM WILKINSON, son, ("Ross") was to exercise powers in the Trust as a fiduciary and has no power to enlarge or shift any beneficial interest in the Trust (<i>copy of Trust attached to Petition</i>). Ross has breached Probate Code §§ 16000-16001 (5) by converting Trust property for his own personal use and benefit after he was made a Co-Trustee in April 2005. Checks from the Trust bank account held at Bank of America reveal that Ross has converted funds for his own personal benefit. In addition, many checks were made payable to Ross' wife Cindi Wilkinson ("Cindi"). Ross and Cindi have absconded Trust property in a minimum amount of over \$750,000.00. On 3/26/2007, Ross directed \$200,000.00 to be wire-transferred from the Trust's Wachovia stock account to Pacific Northwest Title Company, which funds were used to purchase real property located in Monroe, Washington, in the name of Ross and Cindi Wilkinson, and is not listed as Trust property (<i>copies of the Wachovia withdrawal attached</i>); Petitioner requests that Ross be relieved as Trustee to ensure that no other Trust assets are converted or misappropriated, and states that though the Trust provides for Petitioner to act as Trustee in Ross' place, Petitioner lives in Florida and therefore it is not practical for him to act as Trustee; therefore, Petitioner requests that JANE MORTON be appointed as successor trustee as provided in Article One of the Trust document. 	
<input type="checkbox"/>	Aff.Sub.Wit.		
<input checked="" type="checkbox"/>	Verified		
<input type="checkbox"/>	Inventory		
<input type="checkbox"/>	PTC		
<input type="checkbox"/>	Not.Cred.		
<input type="checkbox"/>	Notice of Hrg		x
<input type="checkbox"/>	Aff.Mail		x
<input type="checkbox"/>	Aff.Pub.		
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.		
<input type="checkbox"/>	Conf. Screen		
<input type="checkbox"/>	Letters		
<input type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input type="checkbox"/>	Order	x	
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		
Petitioner requests: 1) Ross return the funds he misappropriated from the Trust's bank account, 2) Ross be required to file an accounting for the period commencing from the time he assumed control over the Trust assets, including the date that he became co-trustee of the Trust, 3) Ross be removed as trustee, 4) Ross be found liable for double the amount he misappropriated from William Wilkinson and/or the Trust's estate, 5) a finding that Ross' actions constitute financial elder abuse, 6) as a result of his actions, that Ross be deemed to have pre-deceased his father pursuant to Probate Code § 259, 7) Ross be found responsible for the attorney fees and costs incurred in bringing this action or, in the alternative, the Trust reimburse Petitioner, 8) finding that Ross is not entitled to use Trust assets to defend himself in this action.			

~Please see additional page~

Petitioner prays for an Order:

1. Finding Ross W. Wilkinson is in possession of assets belonging to the Trust and/or Estate of William & Dorthea Wilkinson which should be restored back to the Trust and/or the Estate of William & Dorthea Wilkinson;
2. Declaration Ross W. Wilkinson holds assets belonging to the Trust and/or Estate of William & Dorthea Wilkinson as constructive trustee for the persons entitled to distribution of the Estate of William & Dorthea Wilkinson pursuant to the terms of the Trust;
3. Finding Ross W. Wilkinson has in bad faith, and wrongfully taken property belonging to the Estate of William & Dorthea Wilkinson and is, therefore, liable for twice the value of the property he misappropriated;
4. Requiring Ross W. Wilkinson to file an account within 30 days following the return of assets to the Trust and/or the Estate of William & Dorthea Wilkinson covering the period commencing with the time Ross W. Wilkinson assumed control over trust assets as a Co-Trustee, through and including the date of the return of assets;
5. Finding Ross W. Wilkinson's action in misappropriating William D. Wilkinson's assets for his own personal use and benefit, to the detriment of William D. Wilkinson, were taken in bad faith and with the intent to defraud and deprive William D. Wilkinson the use of his property, and as such actions constitute financial elder abuse of an elder as defined in applicable provisions of the California Welfare & Institutions Code;
6. Finding Ross W. Wilkinson has pre-deceased William D. Wilkinson and should not be entitled to have a beneficial interest in the Trust and/or Estate of William & Dorthea Wilkinson;
7. Ross W. Wilkinson pay Petitioner's reasonable attorney's fees and costs incurred in bringing this action and to the extent that Ross W. Wilkinson is not required to pay the attorney fees and costs incurred in bringing this petition, the Trust and/or Estate of William & Dorthea Wilkinson reimburse the Petitioner for the costs he has incurred; and
8. Finding that Ross W. Wilkinson be removed as Trustee of the Trust and that Jane Morton be designated as Trustee of the Trust.

Objections of Trustee Ross William Wilkinson to the Fourth Amended Petition for Accounting.... Filed 08/31/12 admits and denies various statements alleged in the petition and states:

1. Regarding the Trust, on April 9, 1992, William D. Wilkinson and Dorthea M. Wilkinson created a revocable trust under the laws of the State of California by executing a document entitled the *William and Dorthea Wilkinson Trust* (the "Trust"). Pursuant to the terms of the Trust, as a result of Dorthea's death on 01/19/97, the assets of the Trust estate were divided and allocated into three separate sub-trusts known as the *William and Dorthea Wilkinson Trust A – Exemption Trust* (the "Wilkinson Trust A"), the *William and Dorthea Wilkinson Trust B – QTIP Trust* (the "Wilkinson Trust B"), and the *William and Dorthea Wilkinson Trust C – Survivor's Trust* (the "Wilkinson Trust C"). The three separate sub-trusts are collectively referred to as the "Wilkinson Trusts".
2. The Wilkinson Trust A and Wilkinson Trust B were made irrevocable on the death of Dorthea Wilkinson. The Wilkinson Trust C, however, remained revocable and amendable by William D. Wilkinson during his lifetime.
3. William D. Wilkinson executed a document entitled *The First Amendment to Trust Agreement – Survivor's Trust* on 02/03/98, a document entitled *The Second Amendment to Trust Agreement – Survivor's Trust* on 01/04/2000 and a document entitled *The Third Amendment to Trust Agreement – Survivor's Trust* on 08/30/04.
4. On 04/08/05, William D. Wilkinson executed a document entitled *The Fourth Amendment to Trust Agreement – Survivor's Trust* (the "Fourth Trust Amendment").
5. The Fourth Amendment expressly and specifically revoked the three previous amendments.
6. Respondent objects to the allegation contained in paragraph 6 of the Fourth Amended Petition that reads as follows:
"As set forth in the Fourth Amendment to Trust Agreement – Survivor's Trust for the William and Dorthea Wilkinson Trust, Trustee Ross Wilkinson was to exercise powers in the trust with Trustee's fiduciary capacity and the Trustee has no power to enlarge or shift any beneficial interest in the Trust."

Continued on Page 3

6 (con't). Respondent states that the language in the Petition is not a true and accurate recitation of the language actually set forth at Page 3, Section 4 of the Fourth Amendment to the Trust Agreement. The true and accurate language set forth at Page 3, Section 4 of the Fourth Trust Amendment is as follows:

"The Trustee shall exercise all powers in the Trustee's fiduciary capacity. The Trustee shall have no power under any provision or terms of the trust to enlarge or shift any of the beneficial interests under any trust created hereunder **except as an incidental consequence of the discharge of the Trustee's fiduciary duty.**" (Bold face type is the language set forth in the Fourth Trust Amendment that was not cited by Petitioner in the Fourth Amended Petition).

7. Respondent further objects to each and every allegation in Paragraph 6 of the Fourth Amended Petition on the basis that said allegations are uncertain in that Petitioner claims that Respondent breached Probate Code § 16000 – 16001(5) when in fact Probate Code § 16001(1) – 16001(5) do not exist and on the further grounds that the allegations do not state facts, but merely state legal conclusions.
8. Respondent objects to the allegation that "Petitioner, James Roger Wilkinson, has recently received copies of checks from the Trust Bank account held by Bank of America" on the grounds that said allegation is an evidentiary matter and does not state an ultimate fact. Respondent further objects to this allegation as non-specific in that the Bank of America Account is not identified by account number and that the allegation is uncertain in that it cannot be determined if the dates of the checks obtained by Petitioner fall within a period of time that Respondent was a Co-Trustee or Trustee of the Trust.
9. Respondent further objects to the following allegations in the Petition in that they do not state an "ultimate fact" but merely state a "legal conclusion":
 - "The checks revealed that Trustee Ross William Wilkinson has converted funds for his own use and personal benefit."
 - "Trustee Ross William Wilkinson has therefore breached the Probate Code."
10. Respondent further denies the allegation that Trustee Ross William Wilkinson breached his fiduciary duty to maintain Trust assets for the beneficiaries of the Trust, including beneficiary James Roger Wilkinson.
11. Respondent denies the allegation in Paragraph 8 of the Fourth Amended Petition that Trustee Ross William Wilkinson and his wife Cindy Wilkinson have absconded trust property in a minimum amount of \$750,000.00 or in any amount whatsoever.
12. Respondent admits that on 03/26/07, Trustee Ross William Wilkinson directed \$200,000.00 to be wire transferred from the William & Dorthea Trust Wachovia stock account to Pacific Northwest Title Company; that said funds were used to purchase certain real property commonly known as 20616 223rd Street SE, Monroe, WA, and that the property was purchased in the name of Ross Wilkinson and Cindy Wilkinson and is not listed as Trust property.
13. Respondent denies the allegation that the Trustee has depleted Trust assets of \$200,000.00 for his own personal use and gain and alleges:
 - a. The acquisition of said real property was part of a tax free exchange by Respondent that involved the sale of another parcel of real property;
 - b. The \$200,000.00 wire transfer to Pacific Northwest Title Company was from Wilkinson Trust B Wachovia stock account and was made with the knowledge, consent and authorization of William D. Wilkinson, a co-trustee and sole beneficiary of the Wilkinson Trust B and was a loan authorized by law and by the Wilkinson Trust;
 - c. \$160,000.00 of the \$200,000.00 wire transfer from Wilkinson Trust B Wachovia stock account was repaid by Respondent on or about 07/02/07;
 - d. \$21,169.58 of the \$200,000.00 was repaid by the Respondent on or about 11/28/07;
14. Respondent denies the allegations in Paragraph 10 of the Fourth Amended Petition that Ross W. Wilkinson violated the duty owed to Petitioner as beneficiary of the Trust and further denies that Ross W. Wilkinson has converted funds of the Trust for his own personal use and benefit.
15. Respondent objects to the allegation in Paragraph 11 of the Fourth Amended Petition that "Petitioner requests Ross W. Wilkinson be relieved as Trustee" on the grounds that the allegation is plead as a request for relief and is not plead as an ultimate fact. Respondent further denies the remaining allegations in paragraph 11 that Ross W. Wilkinson converted or misappropriated Trust assets.

Continued on Page 4

16. Respondent denies that upon removal of Ross W. Wilkinson as Trustee, there will be no Trustee of the Trust. Respondent admits that the Trust instrument provides for James Roger Wilkinson to act as Trustee in place of Ross W. Wilkinson and further admits that James Wilkinson resides in Florida and that it is not practical for him to act as trustee of the remaining Trust assets.
17. Respondent denies that he misappropriated funds from the Trust bank account.
18. Respondent objects to the allegation that "Ross W. Wilkinson be required to file an accounting for the period commencing from the time he assumed control over the Trust assets, including the date that he became Co-Trustee" on the grounds that said allegation is pled in the form of a request for relief and has not been pled as an ultimate fact.
19. Respondent objects to the allegation that "Ross W. Wilkinson be removed as Trustee" on the grounds that said allegation is pled in the form of a request for relief and has not been pled as an ultimate fact.
20. Respondent objects to the allegation that "Ross W. Wilkinson be required to return assets to the Trust's estate" on the grounds that said allegation is pled in the form of a request for relief and has not been pled as an ultimate fact.
21. Respondent denies the allegation that "by virtue of Ross W. Wilkinson's actions, he holds title to assets wrongfully obtained, including all income therefrom, as Constructive Trustee for the benefit of persons entitled to distribution of the Estate of William & Dorthea Wilkinson Trust, as set forth in the Trust."
22. Respondent objects to the allegation that "Ross W. Wilkinson be found liable for double the amount he misappropriated from his father, William Wilkinson, and/or the Trust's estate" on the grounds that said allegation is pled in the form of a request for relief and has not been pled as an ultimate fact.
23. Respondent objects to the allegation that "Ross W. Wilkinson's actions constitute financial abuse of an elder as defined in the California Welfare & Institutions Code on the grounds that said allegation does not state an ultimate fact but merely states a legal conclusion.
24. Respondent objects to the allegation that "as a result of his actions, Ross W. Wilkinson is deemed to have predeceased his father pursuant to Probate Code § 259 on the grounds that said allegation is pled in the form of a request for relief and has not been pled as an ultimate fact.
25. Respondent objects to the allegation that "Ross W. Wilkinson be responsible for attorney fees and costs incurred in bringing this action, or in the alternative, the Trust reimburse Petitioner" on the grounds that said allegation is pled in the form of a request for relief and has not been pled as an ultimate fact.
26. Respondent objects to the allegations that "Ross W. Wilkinson is not entitled to use Trust assets to defend himself in this matter" on the grounds that said allegation is pled in the form of a request for relief and is a legal conclusion and is not pled as an ultimate fact.
27. Respondent objects to the allegation that "Petitioner requests this Court order the funds which were wrongfully misappropriated by Ross W. Wilkinson be restored to the William & Dorthea Wilkinson Trust on the grounds that those transfers were made as a direct result of undue influence by Ross W. Wilkinson over William D. Wilkinson" on the grounds that said allegation is pled in the form of a request for relief and is not pled as an ultimate fact.
28. Respondent denies the following allegations in the Petition: that "at the time Ross W. Wilkinson became co-trustee and signatory on the Bank of America Trust account, William D. Wilkinson's health was failing"; that "William D. Wilkinson was suffering from dementia and memory loss"; that "William D. Wilkinson was frail, unable to maintain himself and required the care of health care personnel on a full-time basis"; that "in these conditions, William D. Wilkinson's state of mind was such that he was unable to manage the Trust account now managed and controlled by Ross W. Wilkinson"; that "in William D. Wilkinson's feeble state of mind and health, Ross W. Wilkinson was able to exert dominance and control over him and thereby controlled the financial matters of the Trust"; that "William D. Wilkinson was aged and debilitated and dependent on the assistance of others with his financial matters"; that "as a result of William D. Wilkinson's age and physical and mental weakness, he was easily influenced and controlled by Ross W. Wilkinson"; that "after Ross W. Wilkinson obtained access to the Trust bank account, he actively took steps to isolate William D. Wilkinson from Petitioner and conducted these financial transfers in secret, outside the purview of family friends."
29. Respondent objects to the language contained in Paragraph 18 set forth on Page 6, Lines 5 – 9 of the Fourth Amended Petition on the grounds that said language does not contain allegations of ultimate facts but constitutes a recitation of law. Respondent objects to the remaining allegations in Paragraph 18 on the grounds that said allegations are pled in the form of a request for relief and are not pled as ultimate facts.

Continued on Page 5

30. Respondent admits that Ross W. Wilkinson claims he is entitled to assets distributed to him from the Trust. Respondent denies that the assets distributed to him were wrongfully procured from William D. Wilkinson and/or the Trust.
31. Respondent denies the following allegations contained in Paragraph 20 of the Fourth Amended Petition:
 - a. That "Ross W. Wilkinson began misappropriating funds from the Trust."
 - b. That William D. Wilkinson was "dependent on others for management of his finances."
 - c. That "Ross W. Wilkinson used, and otherwise misappropriated assets belonging to William D. Wilkinson as well as the trust's assets for his own use and benefit to the detriment of William D. Wilkinson."
 - d. That "Ross W. Wilkinson's wrongful actions were taken in bad faith, with intent to defraud or deprive William D. Wilkinson the use of his own property and to deplete the Trust's assets."
32. Respondent objects to the allegation that "Ross W. Wilkinson's actions constitute financial abuse of an elder as defined in the applicable provisions of the California Welfare & Institutions Code" on the grounds that said allegation is not pled as an ultimate fact but amounts to a legal conclusion.
33. Respondent admits that William D. Wilkinson was 65 years of age at the time that Ross W. Wilkinson became a co-trustee with him.
34. Respondent denies the allegations contained in Paragraph 21 as follows:
 - a. That "Ross W. Wilkinson had an undue influence and an oppressive relationship with William D. Wilkinson who was an elder and a dependent adult."
 - b. That "Ross W. Wilkinson's actions can only be explained as being fraudulent, for his own benefit, and in bad faith."
35. Respondent objects to the allegation that Probate Code § 259 should be deemed applicable to Ross W. Wilkinson's actions, thus resulting in him being deemed to have pre-deceased William D. Wilkinson for purposes of having beneficial interest in the Trust or the estate of William D. Wilkinson" on the grounds that said allegation is not an allegation of ultimate fact but is a request for relief and a legal conclusion.

First Affirmative Defense:

Pursuant to CCP §430.10(e), Respondent alleges that the Fourth Amended Petition fails to state a cause of action for elder abuse under Welfare & Institutions Code § 15000 et seq. in that the Fourth Amended Petition does not contain the necessary allegations required under Welfare & Institutions Code § 15657.3 to establish the standing of Petitioner to bring an action for elder abuse.

Second Affirmative Defense:

Respondent alleges that the claim for elder financial abuse under Welfare & Institutions Code § 15000 et seq. is barred by the Doctrine of Laches in that the Petitioner alleges that William D. Wilkinson died on 02/03/09, but Petitioner's claim for elder abuse was not raised in the original Petition filed in this matter on 03/21/11, nor was said claim raised in the Amended Petition filed on 04/06/11, the Second Amended Petition filed on 05/18/11, or the Third Amended Petition filed on 09/14/11. Petitioner's claim of elder abuse under Welfare & Institutions Code § 15000 et seq. was raised for the very first time in this Fourth Amended Petition (paragraph 14) filed in this matter on 07/18/12, some 3 years and 5 months after the decedent's death.

Third Affirmative Defense:

Respondent alleges that Petitioner's claim for relief under Probate Code § 259 is barred by the Doctrine of Laches in that relief under Probate Code § 259 is derivative of Welfare & Institutions Code § 15000 et seq. because said relief requires a court finding of elder financial abuse under Welfare & Institutions Code § 15000 et seq. and Petitioner's claim for elder financial abuse is barred by the Doctrine of Laches as said claim was raised for the very first time in the Fourth Amended Petition filed in this matter on 07/18/12, some 3 years and 5 months after the decedent's death.

Fourth Affirmative Defense:

Respondent alleges that the Fourth Amended Petition fails to state a cause of action in that the Petition fails to state allegations meeting the venue requirements of Probate Code § 17005. The Fourth Amended Petition appears to be brought under the provisions of Probate Code § 17200 and the proper county for commencement of a proceeding pursuant to Probate Code §§ 1500-18201 is set forth in Probate Code § 17005.

Fifth Affirmative Defense:

Respondent alleges that all distributions of trust assets made to Ross W. Wilkinson by Respondent as a co-trustee of the Trust from the time Ross W. Wilkinson became a co-trustee to the death of William D. Wilkinson, were made with the knowledge, consent and with authorization of William D. Wilkinson.

Sixth Affirmative Defense:

Respondent alleges that the distribution of \$200,000.00 to Ross W. Wilkinson was a loan authorized by Probate Code § 16244(a) and Article Twelve of the Trust.

Continued on Page 6

Seventh Affirmative Defense:

Respondent asserts the equitable defense of unclean hands on the part of Petitioner in that at all times referred to in the Fourth Amended Petition, the Petitioner received over \$166,000.00 from the Trust that Petitioner has used for his own benefit and gain to the detriment of William D. Wilkinson.

Eighth Affirmative Defense:

Respondent alleges that Petitioner's claim for relief under Probate Code § 850(a)(2)(d) is barred by the Doctrine of Laches in that the Fourth Amended Petition, which has been verified by Petitioner, at Paragraph 4, states that William D. Wilkinson died on 02/03/09, but Petitioner's claim for relief under Probate Code § 850(a)(2)(d) was not raised in the original Petition filed in this matter on 03/21/11, nor was said claim raised in the Amended Petition filed on 04/06/11, the Second Amended Petition filed on 05/18/11, or the Third Amended Petition filed on 09/14/11. Petitioner's claim for relief under Probate Code § 850(a)(2)(d) was raised for the very first time in Paragraph 19 of the Fourth Amended Petition filed in this matter on 07/18/12, some 3 years and 5 months after decedent's death.

Respondent prays for an Order:

1. Denying and dismissing the Fourth Amended Petition;
2. For attorney's fees according to proof; and
3. For costs of suit incurred herein.

Notes for background:

- *Minute Order* dated 06/12/12 states: Mr. Clark informs the Court that he has everything now. Counsel informs the Court that he will be filing a fourth amended petition. Matter set for Settlement Conference on 09/24/12. Counsel is directed to submit their settlement conference statements along with a courtesy copy for the Court by 09/19/12. Trial is set on 10/30/12 with a three day estimate.
- *Minute Order* dated 2/8/12 states Court requests Mr. Simonian to contact Mr. Clark regarding the filing of the 4th amended account he stated he would file at the 1/25/12 hearing.
- *Minute Order* dated 1/25/12 states Mr. Clark is appearing via conference call. Mr. Clark advises the Court that he will be preparing a fourth amended petition. The Court orders that there be no acceptance of any offers as to the 7800 Van Ness property pending court approval. The Court will entertain an Order Shortening Time.
- *Minute Order* dated 05/08/12 states: Mr. Clark is appearing via conference call. Mr. Clark informs that Court that he is still waiting for a full year's worth of accounting from Mr. Simonian's client. He further advises that he received the checks three or four days ago and believes he has enough to do his own accounting. Matter continued to 06/12/12. Mr. Clark to send the package of documents to Mr. Simonian, the Court approves the sale of the property subject to any objections which are to be lodged no later than 06/11/12.
- *Minute Order* dated 06/12/12 states: Mr. Clark informs the Court that he has everything now. Counsel informs the Court that he will be filing a fourth amended petition. Matter set for Settlement Conference on 09/24/12. Counsel is directed to submit their settlement conference statements along with a courtesy copy for the Court by 09/19/12. Trial is set on 10/30/12 with a three day estimate.
- *Minute Order* dated 08/22/12 states: Mr. Clark is appearing via conference call. Mr. Rube advises the Court that he will be substituting in as trial counsel. Mr. Rube requests a continuance to file his response to the Fourth Amended Petition. The Court directs Mr. Rube to file his response by 09/19/12. The Court vacates the settlement conference scheduled for 09/24/12 and reschedules a status hearing for that date. The trial date of 10/30/12 and deposition date of 09/04/12 remain as scheduled.

Status Hearing

William DOD: 2/2/2009			William and Dorthea Wilkinson created the WILLIAM AND DORTHEA WILKINSON TRUST (the "Trust") on 04/09/92.	NEEDS/PROBLEMS/COMMENTS:
Dorothea DOD: 1/19/1997				
			ROSS W. WILKINSON ("Respondent"), son and beneficiary, is the currently acting Trustee of Trust.	
Cont. from			JAMES WILKINSON ("Petitioner"), son and beneficiary, filed a Petition for Account on 03/21/11, an Amended Petition for Account on 04/06/11, a Second Amended Petition for Account on 05/18/11, a Third Amended Petition for Account, Removal of Trustee and Appointment of Successor on 09/14/11, and a Fourth Amended Petition on 07/18/12.	
	Aff.Sub.Wit.			
✓	Verified		Respondent, Ross W. Wilkinson , filed a Second Status Report on Trustee's Accounting for Trust Activities on 08/31/12. The Status Report states: the Court has ordered Respondent to provide Petitioner with an accounting of the activities of the Trust, including three sub-trusts (Wilkinson Trust A -Exemption Trust)(Wilkinson Trust B – QTIP Trust) and (Wilkinson Trust C – Survivor's Trust), for the period commencing 04/05/05 through 06/30/11, and an accounting for the disposition of any funds or accounts, the source of which can be traced to any of the sub-trusts from 04/05/05 through the date of the account.	
	Inventory			
	PTC		In compliance with the Order of this Court , Respondent, as Trustee of the Trust (and sub-trusts), attaches accountings of the activities of each of the sub-trusts for the period commencing 04/05/05 – 07/13/11.	
	Not.Cred.			
	Notice of Hrg		This Second Status Report is being filed with the Court to evidence compliance by Respondent with the previous orders of this Court. Respondent is not requesting Court approval of the trustee's accountings at this time, but reserves the right to formally petition this Court for approval of the Trustee's Accountings at a later date.	
	Aff.Mail			
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	Conf. Screen			
	Letters			
	Duties/Supp			
	Objections			
	Video Receipt			
	CI Report			
	9202			
	Order			
	Aff. Posting			
	Status Rpt			
	UCCJEA			
	Citation			
	FTB Notice			

DOD: 06/22/2012		<p>KAREN K. WILLIAMS, daughter is petitioner and requests appointment as Administrator with bond set at \$170,000.00.</p> <p>Full IAEA – o.k.</p> <p>Decedent died intestate</p> <p>Residence: Fresno Publication: The Business Journal</p> <p><u>Estimated value of the estate:</u> Personal property - \$100,000.00 Real property - \$70,000.00 Total: - \$170,000.00</p> <p>Probate Referee: Rick Smith</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>Note:</u> If the petition is granted status hearings will be set as follows:</p> <ul style="list-style-type: none"> • Friday, 10/26/2012 at 9:00a.m. in Dept. 303 for the filing of the bond <u>and</u> • Friday, 02/22/2013 at 9:00a.m. in Dept. 303 for the filing of the inventory and appraisal <u>and</u> • Friday, 11/22/2013 at 9:00a.m. in Dept. 303 for the filing of the first account and final distribution. <p>Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior to the hearings on the matter the status hearing will come off calendar and no appearance will be required.</p>
Cont. from			
	Aff.Sub.Wit.		
✓	Verified		
	Inventory		
	PTC		
	Not.Cred.		
✓	Notice of Hrg		
✓	Aff.Mail w/		
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	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
✓	Letters		
✓	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
✓	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		

Reviewed by: KT / LV	
Reviewed on: 09/18/2012	
Updates:	
Recommendation: Submitted	
File 10 - Williams	

Reyna age: 10 yrs		JACQUELINE GARCIA , mother, is petitioner. ROSIE ALVARADO , paternal grandmother, was appointed guardian on 10/11/2007. Order appointing guardian includes additional orders stating Robert Briseno, Jr. may not be present in the guardian's home for any reason, at any time. Any visitation of either parent with the children must be supervised by Rosie Alvarado. The guardian will determine the visitation times – no overnight visits and no unsupervised visits. Father: Robert Briseno, Jr. Paternal grandfather: Robert Briseno, Sr. Maternal grandmother: Rita Day Maternal grandfather: Jaime Garcia	NEEDS/PROBLEMS/COMMENTS: Continued from 7/2/12. Minute Order states the Court orders unsupervised visits between the mother and the children. Visitation shall be a minimum of twice per week and may include overnights. Additionally, the Court orders unlimited telephone contact between the mother and the children. These orders shall remain in full force and effect until further order of the court. Matter continued to 9/24/12. Jacqueline Garcia and Rosie Alvarado are ordered to be personally present on 9/24/12.	
Rey age: 9 yrs				
Cont. from 070212				
	Aff.Sub.Wit.			
✓	Verified			
	Inventory			
	PTC			
	Not.Cred.			
✓	Notice of Hrg	Father: Robert Briseno, Jr. Paternal grandfather: Robert Briseno, Sr. Maternal grandmother: Rita Day Maternal grandfather: Jaime Garcia Petitioner states she is now stable and sober and can provide a safe home for her children. Objections of Guardian Rosie Alvarado filed on 6/1/02 states although the mother says she is stable Ms. Alvarado believes she is not. Ms. Alvarado states the mother has only been at her current residence for 2 months and move at least three times prior to that. Mom is not making enough money to support 4 children. Ms. Alvarado states the children are doing well in her care. The children currently attend a school that has second language emersion. If the children are returned to their mother they will attend another school. When the children learned about this they became upset.	Reviewed by: KT Reviewed on: 9/18/12 Updates: Recommendation: File 11 - Briseno	
	Aff.Mail			
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✓	Pers.Serv.			W/
	Conf. Screen			
	Letters			
	Duties/Supp			
	Objections			
	Video Receipt			
	CI Report			
	9202			
✓	Order			
	Aff. Posting			
	Status Rpt			
	UCCJEA			
	Citation			
	FTB Notice			

Reply to Objections filed by Petitioner/mother, Jacqueline Garcia, on 6/27/12 states she has been drug free for 3 years. She has completed her probation and obtained a job which she has held for 2½ years and has been living on her own for 3 years. Mom states she has constantly called, texted and left voicemail messages to see her children and Mrs. Alvarado does not return her calls. Mom states she hasn't seen her children in three weeks and before that it was 2 months. Mrs. Alvarado was allowing the children to stay the night with Mr. Briseno's [father] residence. Also she allowed the father and his girlfriend to live with her and they were both constantly under the influence of meth. Mom states she is concerned for their safety.

Mom states she recently moved to a better neighborhood in a gated community for the benefit of her children. She states she is more than financially able to care for her children. Her current job which is grant funded will end in July of 2013 at which time she will be moving to San Mar Properties as either a maintenance coordinator or residential manager in which she will have a 2-3 bedroom apartment. Mom states she is currently in the process of getting her felonies dropped to misdemeanors, but either way getting welfare for her other two children is irrelevant to the case at hand.

Mom states Mrs. Alvarado has known since the beginning that the guardianship was only temporary. Mom states she is very concerned with the fact that Mrs. Alvarado does not let her see her children as much as before. She punishes them if they aren't "good" or if they don't clean their rooms by not allowing them to come to mom's house.

Mom states she has a great support group that includes her mother, her church, her pastors, her boyfriend and her boss.

Mom states she strongly believes it is time for her children to be at home with her and for Rosie to be Grandma and not mom and dad. Mom states she appreciates what Rosie has done but it is time for her to step up and be a responsible parent.

Court Investigator Dina Calvillo's Report filed on 6/27/12.

Atty
Atty

Delgado, Blanca Stella (Pro Per – Mother – Petitioner)
Gonzalez, Carmen (Pro Per – Maternal Grandmother – Guardian)

Petition for Termination of Guardianship

Fatima (12)		<p>BLANCA STELLA DELGADO, Mother, is Petitioner.</p> <p>CARMEN GONZALEZ, Maternal Grandmother, was appointed Guardian on 7-22-09.</p> <p>Petitioner states she is able to care for her children now. She is a Substance Abuse Intern Counselor at West Care and a student at Fresno City College. She is involved in church ministries and Alcoholics Anonymous.</p> <p>Court Investigator Jennifer Daniel filed a report on 9-15-12.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>Note:</u> This petition pertains to Fatima and Desiree only. Carmen is now 18 and is no longer subject to this guardianship.</p> <p>1. Need Notice of Hearing.</p> <p>2. Need proof of service of Notice of Hearing at least 15 days prior to the hearing pursuant to Probate Code §1460(b)(5) <u>or</u> consent and waiver of notice on:</p> <ul style="list-style-type: none"> - Carmen Gonzalez (Guardian) - Fatima Delgado (Minor) - Desiree Delgado (Minor) - Carmen Delgado (Sibling) - Hildeberto Delgado (Father) - Josefina Delgado (Paternal Grandmother) 	
Desiree (15)				
	Aff.Sub.Wit.			
✓	Verified			
	Inventory			
	PTC			
	Not.Cred.			
	Notice of Hrg			X
	Aff.Mail			X
	Aff.Pub.			
	Sp.Ntc.			
	Pers.Serv.			
	Conf. Screen			
	Letters			
	Duties/Supp			
	Objections			
	Video Receipt			
✓	CI Report			
	9202			
✓	Order			
	Aff. Posting			
	Status Rpt			
	UCCJEA			
	Citation			
	FTB Notice			
		Reviewed by: skc		
		Reviewed on: 9-19-12		
		Updates:		
		Recommendation:		
		File 12 - Delgado		

Xavier (14)		TEMPORARY EXPIRES 9-24-12 BERNADETTE and GERALD R. GOMEZ, Maternal Aunt and Uncle, are Petitioners. Father: VIRGIL MOBLEY Mother: MONIQUE LARA Paternal Grandfather: Virgie Lee Mobley Paternal Grandmother: Linda Mobley Maternal Grandfather: Joe Lara Maternal Grandmother: Eva Lara Petitioners state that due to no food, filthy living conditions, verbal and emotional abuse, suspected drug use and drug traffic in and out of the home, and non-parental supervision, Petitioners feel the need for immediate stable living conditions for the minors. Petitioners state the mother is suspected of using drugs and is blind and physically unhealthy and unable to care for the minors. Petitioners will care for and love them in their time of need. Petitioners have helped care and provide for the children since birth and they are close. The UCCJEA form indicates that the minors have lived with the mother for the past five years. Court Investigator Samantha Henson to file report, clearances.	NEEDS/PROBLEMS/COMMENTS: <u>Note:</u> ICWA notices were received by the appropriate parties as late as 9-5-12. Cal. Rules of Court 7.1015 requires 60 days for response by the tribe/agency. <u>Therefore, the Court will continue the matter to Thurs 11-1-12.</u> <u>The following issues remain and should be addressed prior to the next hearing.</u> 1. Court Investigator to file report, clearances. 2. Need Notice of Hearing for <u>this general hearing and petition</u> . (Petitioners previously filed a Notice of Hearing for the temporary hearing on 8-7-12, but there is no notice for <u>this</u> hearing.) 3. Need proof of personal service of Notice of Hearing with a copy of the Petition at least 15 days prior to the hearing per Probate Code §1511 <u>or</u> consent and waiver of notice <u>or</u> declaration of due diligence on: - Xavier Mobley (Minor age 14) - Kyra Mobley (Minor age 15) - Virgil Mobley (Father) - Monique Lara (Mother) 4. Need proof of service of Notice of Hearing with a copy of the Petition at least 15 days prior to the hearing per Probate Code §1511 <u>or</u> consent and waiver of notice <u>or</u> declaration of due diligence on: - Virgie Lee Mobley (Paternal Grandfather) - Linda Mobley (Paternal Grandmother) - Joe Lara (Maternal Grandfather) - Eva Lara (Maternal Grandmother)	
Kyra (15)				
	Aff.Sub.Wit.			
✓	Verified			
	Inventory			
	PTC			
	Not.Cred.			
	Notice of Hrg			X
	Aff.Mail			X
	Aff.Pub.			
	Sp.Ntc.			
	Pers.Serv.			X
✓	Conf. Screen			
✓	Letters			
✓	Duties/Supp			
	Objections			
	Video Receipt			
	CI Report	X		
	Clearances	X		
✓	Order			
	Aff. Posting			
	Status Rpt			
✓	UCCJEA			
	Citation			
	FTB Notice			
		Reviewed by: skc Reviewed on: 9-20-12 Updates: Recommendation: File 13 - Mobley		

14 Armando Parra (GUARD/P)
Atty Garcia, Jose (pro per – brother/Petitioner)
Atty Pena, Laura (pro per – brother's fiancée/Petitioner)

Case No. 12CEPR00656

Petition for Appointment of Guardian of the Person (Prob. C. 1510)

Age: 14		<p align="center"><u>TEMPORARY EXPIRES 9/24/12</u></p> <p>JOSE GARCIA, adoptive brother, and LAURA PENA, brother's fiancée, are petitioners.</p> <p>Father: DECEASED</p> <p>Mother: DECEASED</p> <p>Paternal grandparents: Deceased Maternal grandparents: Deceased.</p> <p>Petitioners state that Armando no longer has a parent or guardian. Petitioners would like to be his guardian to be able to enroll him in school and take him to see the doctor.</p> <p>Court Investigator Julie Negrete filed a report on 09/14/12.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <ol style="list-style-type: none"> 1. Need Notice of Hearing. 2. Need proof of personal service at least 15 days before the hearing of Notice of Hearing with a copy of the Petition for Appointment of Guardian of the Person <u>or</u> Consent and Waiver of Notice for: - Armando Parra (minor) 	
Cont. from				
<input type="checkbox"/>	Aff.Sub.Wit.			
<input checked="" type="checkbox"/>	Verified			
<input type="checkbox"/>	Inventory			
<input type="checkbox"/>	PTC			
<input type="checkbox"/>	Not.Cred.			
<input type="checkbox"/>	Notice of Hrg			x
<input type="checkbox"/>	Aff.Mail			n/a
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<input type="checkbox"/>	Pers.Serv.			x
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<input checked="" type="checkbox"/>	Letters			
<input checked="" type="checkbox"/>	Duties/Supp			
<input type="checkbox"/>	Objections			
<input type="checkbox"/>	Video Receipt			
<input checked="" type="checkbox"/>	CI Report			
<input type="checkbox"/>	9202			
<input checked="" type="checkbox"/>	Order			
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<input type="checkbox"/>	Status Rpt			
<input checked="" type="checkbox"/>	UCCJEA			
<input type="checkbox"/>	Citation			
<input type="checkbox"/>	FTB Notice			
		<p>Reviewed by: JF</p> <p>Reviewed on: 09/20/12</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 14 - Parra</p>		

Petition for Appointment of Temporary Conservator of the Person (Prob. C. 2250)

Age: 36 DOB: 10/07/75	<u>GENERAL HEARING 10/24/12</u> VEASNA THAN , sister, is Petitioner and requests appointment as Temporary Conservator of the Person. Petitioner states that Temporary Conservatorship of the Person is necessary because Chantou has mild developmental delays and has always been cared for by her mother, even after she got married. Chantou is now pregnant and Petitioner fears that she is in an abusive relationship. Petitioner states that temporary conservatorship is necessary because Chantou will need help caring for herself and caring for a newborn baby. Also, Chantou will benefit from having a conservator because the conservator will advocate for her and protect her from abusive situations. Court Investigator Dina Calvillo filed a report on 09/18/12. The report states that the proposed conservatee does not agree with the conservatorship. The report further states that when the investigator met with the proposed conservatee at her residence, she appeared comfortable in her hom, appeared to be receiving proper medical care, and seemed comfortable in the presence of her husband. The proposed conservatee did not appear to be in any danger. It is therefore recommended that the petition be <u>DENIED</u> as there does not appear to be an emergency that would necessitate a temporary conservatorship of the person.	NEEDS/PROBLEMS/COMMENTS: Court Investigator advised rights on 09/13/12. 1. Need Notice of Hearing. 2. Need proof of personal service of Notice of Hearing with a copy of the <i>Petition for Appointment of Temporary Conservator of the Person</i> at least 5 Court days before the hearing on the proposed conservatee, Chantou Than, pursuant to Probate Code § 2250.2(c). 3. Need proof of service by mail at least 5 court days before the hearing of Notice of Hearing with a copy of the <i>Petition for Appointment of Temporary Conservator of the Person</i> for: - Sokha Than (brother) - Ron Tek (mother) - Amado Salas (husband) - and any other relatives within the second degree.
Cont. from		
<input type="checkbox"/> Aff.Sub.Wit.		
<input checked="" type="checkbox"/> Verified		
<input type="checkbox"/> Inventory		
<input type="checkbox"/> PTC		
<input type="checkbox"/> Not.Cred.		
<input type="checkbox"/> Notice of Hrg	x	
<input type="checkbox"/> Aff.Mail	x	
<input type="checkbox"/> Aff.Pub.		
<input type="checkbox"/> Sp.Ntc.		
<input type="checkbox"/> Pers.Serv.	x	
<input checked="" type="checkbox"/> Conf. Screen		
<input checked="" type="checkbox"/> Letters		
<input checked="" type="checkbox"/> Duties/Supp		
<input type="checkbox"/> Objections		
<input type="checkbox"/> Video Receipt		
<input checked="" type="checkbox"/> CI Report		
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<input type="checkbox"/> Aff. Posting		
<input type="checkbox"/> Status Rpt		
<input type="checkbox"/> UCCJEA		
<input type="checkbox"/> Citation		
<input type="checkbox"/> FTB Notice		
		Reviewed by: JF
		Reviewed on: 09/20/12
		Updates:
		Recommendation:
		File 15 - Than

16 Kristie Baker (GUARD/P)
Atty Stone, Michelle (pro per – non-relative/Guardian)
Atty Baker, Maurielle Jacqui (pro per – half-sister/Petitioner)

Case No. 05CEPR01107

Petition for Appointment of Temporary Guardianship of the Person (Prob. C. 2250)

Age: 14		<u>GENERAL HEARING 11/14/12</u>		NEEDS/PROBLEMS/COMMENTS:	
		MAURIELLE BAKER , half-sister, is Petitioner.		Note: Michelle Stone, non-relative, was appointed guardian of the minor and Letters were issued on 05/15/08.	
		MICHELLE STONE , non-relative, was appointed guardian of the person of the minor on 05/15/08 – Consent & Waiver of Notice filed 09/14/12		A Petition for Termination has been filed by Petitioner and is set for hearing on 11/14/12.	
Cont. from		Father: MAURICE BAKER – Consent & Waiver of Notice filed 09/14/12		1. There is not a vacancy at guardian at this time. Hearing on Petition for Termination of Guardianship is set for hearing on 11/14/12.	
	Aff.Sub.Wit.		Mother: MEREDITH KINERMAN - Consent & Waiver of Notice filed 09/14/12	2. Need Notice of Hearing .	
✓	Verified		Paternal grandfather: ENOLTON BAKER	3. Need proof of personal service at least 5 court days before the hearing of Notice of Hearing with a copy of the Petition for Appointment of Temporary Guardian of the Person or	
	Inventory		Paternal grandmother: HELEN MCCLENDON - deceased	Consent & Waiver of Notice for: - Kristie Baker (minor)	
	PTC		Maternal grandfather: ROBERT KINERMAN		
	Not.Cred.		Maternal grandmother: MARGIE MARTIN		
	Notice of Hrg	x	Siblings: GABRIELLE BAKER (adult)		
	Aff.Mail		Petitioner states that she would like temporary guardianship of Kristie now because she needs a stable environment and Kristie would prefer to live with her.		
	Aff.Pub.				
	Sp.Ntc.				
	Pers.Serv.	x			
✓	Conf. Screen				
✓	Letters				
✓	Duties/Supp				
	Objections				
	Video Receipt				
	CI Report				
	9202				
✓	Order				
	Aff. Posting				
	Status Rpt				
✓	UCCJEA				
	Citation				
	FTB Notice				
				Reviewed by: JF	
				Reviewed on: 09/20/12	
				Updates:	
				Recommendation:	
				File 16 - Baker	